

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

WENDY CHERRY, Individually and as
Next Friend for EMMA CHERRY, a Minor

V.

COLUMBIA MEDICAL CENTER OF
McKINNEY SUBSIDIARY, L.P. and
COLUMBIA NORTH TEXAS
SUBSIDIARY GP, LLC

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CASE NO. 4:11-CV-00053
(Judge Schneider/Judge Mazzant)

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**


Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On July 19, 2011, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendants' (1) Motion to Dismiss for Lack of Subject Matter Jurisdiction Pursuant to Federal Rule of Civil Procedure 12(b)(1); and (2) Motion to Dismiss for Failure to State a Claim Upon Which Relief can be Granted Pursuant to Federal Rule of Civil Procedure 12(b)(6) (Dkt. #7) should be denied.

The Court, having made a *de novo* review of Defendants’ objections, is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this Court.

It is, therefore, **ORDERED** that Defendants' (1) Motion to Dismiss for Lack of Subject Matter Jurisdiction Pursuant to Federal Rule of Civil Procedure 12(b)(1); and (2) Motion to Dismiss for Failure to State a Claim Upon Which Relief can be Granted Pursuant to Federal Rule of Civil Procedure 12(b)(6) (Dkt. #7) are **DENIED**.

It is SO ORDERED.

SIGNED this 11th day of August, 2011.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE